

## **SUMMARY OF CHANGES TO DOCUMENT #01-96 (since the June 12, 2002 WPCB meeting)**

### **327 IAC 5-4-6 CHANGES:**

#### **Issue #1:**

Language is unclear in this section regarding when individual and general permits are applicable.

#### **Resulting change to rule:**

- Subsection (a) provides clarified authority to regulate specific categories of storm water dischargers under individual permits.
- Subsection (b) provides clarified authority to regulate specific categories of storm water dischargers under general permits.

#### **Issue #2:**

Subsection (d) language does not provide sufficient flexibility, and can be interpreted to require all the applicable general permit rule requirements to be placed in every individual storm water permit.

#### **Resulting change to rule:**

- Subsection (d) provides the revised considerations for requirements to be listed in an individual storm water permit. Specific language for individual permits states, “the department shall consider the following in determining the requirements to be contained in the permit:
  - (1) The provisions in 327 IAC 15-5, 327 IAC 15-6, and 327 IAC 15-13.
  - (2) The nature of the discharges and activities occurring at the site or facility.
  - (3) Other information relevant to the potential impact on water quality.”

#### **Issue #3:**

Rule applicability to municipalities with combined sewer systems is unclear.

#### **Resulting change to rule:**

- Subsection (e) now makes it clear that discharges into a combined sewer system are not regulated by 327 IAC 5-4-6.

**Issue #4:**

Subsection (d)(3) language specifies certain information that IDEM may look at in establishing individual permit requirements, but also allows IDEM to look to “other relevant information”.

**Resulting change to rule:**

- Subsection (d)(3) language has been revised to “other information relevant to the potential impact on water quality”.

**327 IAC 15-13 CHANGES:****Issue #1:**

Language directly referencing storm water discharge consistency with water quality standards is not practical and potentially can open permittees up to legal actions.

**Resulting change to rule:**

- Sections 5 and 10 were revised to delete the term “water quality standards” and either replaced it with “applicable federal or state law” or deleted. Sections 1 and 21 were also revised to ensure consistency with 327 IAC 15-7 through 12 and to reflect the agency's desire to protect public health and the environment. The purpose statement in section 1 was revised to state, “establish requirements for storm water discharges from municipal separate storm sewer system (MS4) conveyances and drainage areas so that public health, existing water uses, and aquatic biota are protected.”

**Issue(s) #2:**

The rule language is inconsistent regarding the use of the term “entity”, and intent of permit coverage...whether the conveyance system or land area is covered by the permit.

**Resulting change to rule:**

- Throughout the rule, the term “entity” was changed to “MS4 entity”, and the rule was clarified to consistently address discharges from only conveyances.

### **Issue #3:**

The rule language for designation of counties is unclear, and the designation of utilities is inconsistent and unclear in the rule. Some of the subsection language is unnecessary, or more appropriate elsewhere in the rule. Designation duration in section 3 does not address situations where termination prior to the expiration of the permit is appropriate.

#### **Resulting change to rule:**

- Section 3 provides a clarified designation criteria for counties, “A county that contains a mapped UA. Only the portion of the county that contains the mapped UA, as delineated by political township or section, township, and range boundaries, must be regulated. If only a portion of the county contains a mapped UA, the MS4 entity may elect to regulate any additional portion of the county, as delineated by political township or section, township, and range boundaries, under this rule.”
- Section 3 provides new designation for storm water utilities, and subsections (b) and (c) were reworded, but kept the same basic meaning. In light of rule language already requiring newly designated entities to apply for permit coverage, the former subsection (e) was determined not to be necessary and deleted.
- Section 3(c) was revised to state, “remains designated until the expiration of its permit unless any of the conditions for termination in section 20 of this rule are applicable.”

### **Issue(s) #4:**

The reference to septic systems in the term “class V injection well” is not completely accurate. Terms are not consistent within the rule and other IDEM programs, and there is confusion over the term “relevant community value” within the definition for “sensitive water”. The language regarding manures and crop residues exemptions in the term “solid waste” could be misinterpreted.

#### **Resulting change to rule:**

- Section 5 provides definitions. Clarification was added to septic systems classified as a “class V injection well”, the term “entity” was replaced with “MS4 entity”, and the term “sensitive water” was replaced with “sensitive area”. The new term “sensitive area” does not include the term “relevant community value”. Reference to water quality standards in this section was either deleted or changed to “applicable state and federal law”. The exclusion under the term “solid waste” for manures and crop residues was revised to include a comma after the word “manures”.

### **Issue #5:**

Various situations for multiple entities submitting NOI letters were not addressed by the rule.

**Resulting change to rule:**

- Section 6 provides new NOI letter submittal requirements and protocols. Clarification was given in subsections (d), (e) and (f) for submittals from multiple MS4 entities.

**Issue #6:**

The purpose and intent of, and terms within, the SWQMP Part B are unclear.

**Resulting change to rule:**

- Section 7 provides clarified requirements of the SWQMP Part B. Former subsections (a) and (b) were combined for clarification, unclear terms were removed, and the purpose was clarified to be a baseline characterization and report.

**Issue #7:**

The flexibility of choosing programmatic indicators in the SWQMP Part C is unclear.

**Resulting change to rule:**

- Section 8 lists programmatic indicators. The language referencing these indicators was clarified, “Programmatic indicators, grouped by corresponding MCM, must include those listed in subsection (b) that apply to the MS4 operator. Other relevant indicators may be used in place of those listed in subsection (b). If an indicator listed in subsection (b) is not applicable to the operator, or if another relevant indicator is used, the operator shall provide rationale for the non-identification or substitution.”

**Issue #8:**

Additional time will be needed for MS4 entities that will be regulated based on changes to the UA maps or other factors.

**Resulting change to rule:**

- Section 9 provides new deadlines for application submittals. The deadline language was changed to allow additional time to regulated entities notified based on updated UA maps. As we do not expect to have the rule effective before the March 10, 2003 deadline for application submission, this date was deleted, and replaced with, “within

ninety (90) days from the effective date of this rule.”

**Issue #9:**

General requirements for the MS4 operator are repetitive and unnecessary.

**Resulting change to rule:**

- Section 10 was changed to address the rule's interaction with the TMDL program. The majority of the section was deleted due to it being repetitive.

**Issue #10:**

The compliance schedule does not allow enough flexibility, and the timetables for implementation are too short.

**Resulting change to rule:**

- Section 11 wording was revised to remove the term “implementation” from the compliance schedule table certification items. The table was revised to reflect implementation throughout the permit term, and certification for the development (not implementation) of control measure programs.

**Issue #11:**

Some requirements in the sections detailing the minimum control measures are not appropriate in their current location, and examples referencing CSO policy are not appropriate in the rule.

**Resulting change to rule:**

- Sections 12 through 17 provide clarified requirements for the minimum control measures. Some of the requirements were moved within these sections based on appropriateness. Some of the references to CSO policies were deleted because they represented examples and will be included in guidance.

**Issue #12:**

Situations may arise where the February reporting deadline for annual reports and the submittal of monthly construction site summaries are inappropriate.

**Resulting change to rule:**

- Section 18 provides the new reporting requirements. The annual report submittal timetable language was revised, “The initial annual report shall be postmarked no later than three hundred sixty-five (365) days from the date of SWQMP-Part C: Program Implementation submittal. Subsequent report submittals during the first five (5) year permit term shall be provided no later than three hundred sixty-five (365) days from the previous report in years three (3), four (4), and five (5).” Under the more flexible monthly construction site summary submittal requirements, language was added to allow an alternative acceptable timetable approved by the commissioner.

**Issue #13:**

Language regarding permit termination is either inappropriate or unclear.

**Resulting change to rule:**

- Section 20 provides the clarified means for getting permit termination. The section was divided into two subsections, (a) and (b), which now describe allowable circumstances when an MS4 operator and the department can request permit termination.

**Issue #14:**

In 15-13-7(a) the terms “items” and “additional water quality protection considerations” are undefined and create confusion .

**Resulting change to rule:**

- In 15-13-7(a) the language has been changed to, “additional water quality measures”.

**Issue #15:**

15-13-7(a)(4) requires “any other applicable correlative conclusions that can be drawn from the data”. The term is not defined and would be confusing to the regulated community.

**Resulting change to rule:**

- The language in 15-13-7(a)(4) has been changed to remove the phrase “any other applicable correlative conclusions that can be drawn from the data”.

**Issue #16:**

In section 7, the term “waters of the state” should be changed to “waters” as redefined in the definitions section.

**Resulting change to rule:**

- In section 7, the phrase “waters of the state” has been changed to “waters” to correlate with the definitions section. Additionally, the phrase has been changed in 5-4-6(a)(1)(B), 15-13-3(a)(3), and 15-13-14(b).

Note: This summary document does not take into account minor changes, based on program consistency issues, unnecessary wording, section or citation renumbering, or grammar.